

EXHIBIT 5

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

IN RE COLLEGE ATHLETE NIL
LITIGATION

Case No. 4:20-cv-03919-CW

**DECLARATION OF AMY NASH
GOLIAN IN SUPPORT OF JOINT
ADMINISTRATIVE OMNIBUS MOTION
TO SEAL**

1 I, Amy Nash Golian, declare as follows:

2 I am a Senior Assistant Vice President and Senior Associate General Counsel at The Ohio
3 State University ("Ohio State"). Ohio State is a member of the Big Ten Conference, which is a
4 defendant in this action. I make this Declaration based on my personal knowledge and
5 investigation, and if called as a witness to testify, I could and would testify competently to the
6 following facts.

7 1. This Declaration is being made in support of the Joint Administration Omnibus
8 Motion to Seal ("Motion"), and pursuant to Civil Local Rules 7-11 and 79-5.

9 2. Ohio State moves to maintain the confidentiality of certain portions of documents
10 filed under seal by the Parties that reflect Institution's highly sensitive, non-public, current
11 financial information.

12 3. Specifically, Ohio State requests that certain portions of The Expert Report of
13 Catherine Tucker [ECF No. 251-1], as described below and as identified in the Proposed Order
14 Regarding Joint Administrative Omnibus Motion to Seal ("Proposed Order") as entry numbers
15 371, 373, 378 and 394 be maintained under seal.

16 4. A party seeking to file a document under seal must "establish that a document, or
17 portions thereof, are sealable." Civil L.R. 79-5(b). In connection with a dispositive motion, a
18 designating party must demonstrate that "compelling reasons" exist to protect the information from
19 being disclosed. *Kamakana v. City & County of Honolulu*, 447 F. 3d 1172, 1178-79 (9th Cir.
20 2006). Redactions, instead of complete removal, can be used to place "limited and clear" portions
21 of information outside the public record. *Id.* at 1183.

22 5. Ohio State can demonstrate that compelling reasons exist to maintain the following
23 narrowly tailored redactions under seal.

24
25 **CONFIDENTIAL INSTITUTIONAL FINANCIAL INFORMATION**

26 6. The Expert Report of Catherine Tucker [ECF No. 251-1] contains information
27 which reflects the details of financial aid provided by Ohio State to its student athletes as well as
28 the specific manner in which Ohio State awards such aid.

7. The Expert Report of Catherine Tucker [ECF No. 251-1] also contains information which reflects confidential financial information regarding Ohio State's revenue sources, which is information that is not available to the public, other conferences, or NCAA member institutions at a conference- or school-specific level.

8. Ohio State would be harmed by the disclosure of such financial information, as it would reveal non-public information regarding Ohio State's financial decisions to other NCAA members and other competitors. *See Nixon v. Warner Commc'ns, Inc.*, 435 U.S. 589, 598 (1978).


9. Therefore, Ohio State supports the Parties' Motion to redact those portions of the Expert Report of Catherine Tucker [ECF No. 251-1] which contain Ohio State's confidential financial information, as identified below and in the Proposed Order:

Document	Entry Number	Text to be Sealed
Expert Report of Catherine Tucker [ECF No. 251-1]	371	p.115 (Fig.7)
Expert Report of Catherine Tucker [ECF No. 251-1]	373	p. 116 (Fig.8)
Expert Report of Catherine Tucker [ECF No. 251-1]	378	p. 118 (Fig. 9)
Expert Report of Catherine Tucker [ECF No. 251-1]	394	p. 136 ¶ 151

10. For the foregoing reasons, Ohio State respectfully submits that compelling reasons exist to seal the information as identified above and in the Proposed Order.

1 I declare under penalty of perjury under the laws of the United States of America that the
2 foregoing is true and correct.

3 Executed on September 27, 2023, in Columbus, Ohio.

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6 Amy Nash Golian
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